

### **INTRODUCTORY COMMENTS**

Reconsideration of this application is respectfully requested in light of the included arguments.

Claims 1-30 are pending in this application, and all claims stand rejected. No claims have been added, cancelled, or amended.

### **REMARKS**

Applicant respectfully requests consideration of the following remarks.

#### **Rejections Under 35 U.S.C. § 102**

In the February 10, 2005 office action, claims 1-12, 15-21 and 23-30 stand rejected under 35 U.S.C. 102(e) as being anticipated by Alexander et al. (6,177,931).

#### **Independent Claim 1**

As to claim 1, the office action asserts, in relevant part, that Alexander discloses,

“utilization of viewer profile information to provide customized Electronic Programming Guide (EPG) presentation and further disclose method for providing television programming, comprising: the claimed ‘providing access to television programming to enable a customer of a broker to create a custom channel...which acts as an intermediary agent, server or ‘broker,’ interfaces with Internet/World Wide Web,...EPG provides and advertisers, monitors and stores viewer’s preferences or profile data...to create a channel guide, e.g. CBS [8] ‘custom channel’..., including STAR TREK ‘at least one television program’ selected from the television programming, in which the viewer can activate ‘access’ and tune to the program; and the Head end transmits the Channel Guide to the viewer”. (Office action dated 2/10/2005, page 2, section 2)

Regarding claim 1, applicants respectfully submit that the cited reference fails to describe “access to television programming to enable a customer of a broker to create a custom channel”, as required for a proper 102(e) rejection.

The office action states “the claimed ‘providing access to television programming to enable a customer of a broker to create a custom channel...’ is met by Head end (figs 6-9, col. 7, lines 10-26, col. 10, lines 43-60 and col. 30, line 45-col. 31, line 8)”. Alexander recites “head end” six times within the specification, none of which describe ‘providing access to television programming to enable a customer of a broker to create a custom channel...’.

1. Column 13, line 41: “...the **head end** controls email traffic between viewers on its network.”
2. Column 29, line 20: “The viewer profile information...can be sent to a computer at the **head end** of television distribution for analysis...”.
3. Column 29, line 32: “The viewer profile analysis program...may be resident at the head end...”
4. Column 31, line 31: “...searches for this type of information [viewer profile data] are conducted at the central computer at the **head end**.”
5. Column 32, line 48: “The preloaded messages [overlay message to an advertisement] can be transmitted by a head end during off hours...”.
6. Column 33, line 12: “These reports [statistical reports of viewer profile information] could be provided for analysis by advertisers, **head end** operators,...”. (emphasis provided)

One of ordinary skill in the art would recognize that all of these references to a ‘head end’ recited in Alexander fail to describe ‘...providing access to television programming to enable a customer of a broker to create a custom channel...’. Further, one of ordinary skill in the art would recognize that creating a “channel guide, e.g. CBS [8]” is different from creating a ‘custom channel’.

A “channel guide, e.g. CBS [8]” (office action, page 2, section 2), as described in Alexander and shown in the referenced figs., is a listing of suggested viewing created by an “EPG and Profile Program” (col. 30, line 47) on a computer at the head end (col. 29, line 20), “deduced from” (col. 7, line 15) “simple statistics collected about a particular viewer” (col. 30, line 48); it is not a ‘custom channel’ created by a customer of a broker. Because the customized channel guide in Alexander is created by a computer at the head end, not by ‘the customer’, and because a “channel guide” is a listing of suggested programs, not a ‘custom channel’ of selected programs, the reference fails to describe applicant’s claim 1. Thus, transmitting a ‘channel guide’ from the head end to a viewer also fails to describe ‘transmitting the custom channel from the broker to the customer’.

Also, as would be understood by one of ordinary skill in the art, “CBS [8]” identifies a broadcast network “provider” (CBS) and the local channel number on which the content of the broadcast network “CBS” is carried to all viewers; “CBS [8]” is not an example of a ‘custom channel’ created by a viewer. In each of the recitations regarding a channel, Alexander describes network channels, (CBS), public channels (PBS), cable channels (CNN), etc., wherein the programs comprising a channel is predetermined irrespective of the individual viewer. Nowhere does Alexander recite a ‘custom channel’ as appears in applicant’s independent claim 1.

For the reasons provided, applicant respectfully submits that Alexander fails to describe ‘providing access to television programming to enable a customer of a broker to create a custom channel...’ as recited in applicant’s independent claim 1, and requests the 102(e) rejection of applicant’s independent claim 1 be withdrawn. In as much as claims 2-5 depend from and include all of the recitations of independent claim 1, applicant likewise respectfully requests the 102(e) rejection of claims 2-5 also be withdrawn.

**Note:** All of applicant’s independent claims contain a recitation of ‘custom channel’, and are therefore distinguished from the Alexander recitation of “channel guide” and “CBS [8]”. For this reason, each subsequent section of this response refers back to the arguments presented in the paragraph immediately preceding this one, in addition to presenting other arguments.

#### **Independent Claim 6**

Regarding claim 6, the office action asserts that the reference recites “...provid[ing] a channel guide, e.g. CBS [8] ‘custom channel’ (fig. 6)...”. (Office action, page 4, paragraph 2) For the same reasons that a “channel guide” and “CBS [8]” in Alexander fail to describe a ‘custom channel’ in applicant’s independent claim 1, they also fail to describe a ‘custom channel’ in applicant’s independent claim 6 (refer to prior section of this response).

Further, Alexander recites that a “Watch List” controls when the “Watch Function” “...automatically tunes the television to the channel scheduled to deliver the designated program, if the television is not already tuned to that channel”. (col. 10, lines 4-7) A “Watch List” according to Alexander is part of a control function for turning on and

tuning a television to a channel. Thereby, Alexander distinguishes a “Watch List” control function from a channel delivering a designated program. Likewise, a “Watch List” according to Alexander also fails to describe a ‘custom channel’ according to applicant’s independent claim 6.

For at least the reason that “channel guide”, “CBS [8]” and “Watch List” fail to describe a ‘custom channel’, Alexander fails to describe applicant’s independent claim 6. Applicant therefore respectfully requests withdrawal of the 102(e) rejection of independent claim 6. Likewise, because claims 7-8 depend from and include all the recitations of independent claim 6, applicant also requests the withdrawal of the 102(e) rejection from claims 7-8.

#### **Independent Claims 9 and 12**

Regarding claims 9 and 12, the office action asserts that the reference recites “generates a Channel Guide, identifying e.g., CBS [8] ‘custom channel’ (fig. 6),...”. (Office action, page 5, paragraph 4, page 7, paragraph 1) For the same reasons that “channel guide” and “CBS [8]” in Alexander fail to describe a ‘custom channel’ in applicant’s independent claims 1, they also fail to describe a ‘custom channel’ in applicant’s independent claims 9 and 12.

For at least the reasons that both “channel guide” and “CBS [8]” fail to describe a ‘custom channel’, Alexander fails to describe applicant’s independent claims 9 and 12. Applicant therefore respectfully requests withdrawal of the 102(e) rejections of independent claims 9 and 12. Likewise, because claims 10-11 and 13-14 depend from and include all the recitations of independent claims 9 and 12, respectively, applicant also requests the withdrawal of the 102(e) rejections from claims 10-11 and 13-14.

**Independent Claim 15**

The office action asserts that a “Watch List” recited by Alexander describes a ‘custom channel’ claimed by applicant in independent claim 15. Alexander recites that a “Watch List” controls when the “Watch Function” “...automatically tunes the television to the channel scheduled to deliver the designated program, if the television is not already tuned to that channel”. (col. 10, lines 4-7) A “Watch List” according to Alexander is part of a control function for turning on and tuning a television to a channel. Thereby, Alexander distinguishes a “Watch List” control function from a channel delivering a designated program because Alexander does not teach that a “Watch List” that tunes a television to a channel is also, simultaneously, the channel itself. Just as a “Watch List” according to Alexander fails to describe a “channel”, it also fails to describe a ‘custom channel’ according to applicant’s independent claim 15.

Applicant therefore respectfully requests withdrawal of the 102(e) rejection of independent claim 15. Likewise, because claims 16-17 depend from and include all the recitations of independent claim 15, applicant also requests the withdrawal of the 102(e) rejection from claims 16-17.

**Independent Claims 18 and 24**

Regarding claim 18, the office action asserts that Alexander recites “...to enable creating of a channel guide, such as CBS [8] ‘custom channel’ (fig. 6)...”. (Office action, page 4, paragraph 2). Regarding claim 24, the office action asserts that Alexander recites “...generates a Channel Guide, identifying e.g., CBS [8] ‘custom channel’ (fig. 6)...”. For the same reasons that a “channel guide” and “CBS [8]” in Alexander fail to describe a ‘custom channel’ in each of the prior independent claims, they also fail to

describe a ‘custom channel’ in applicant’s independent claims 18 and 24 (refer to prior sections of this response).

Regarding independent claim 18, the office action further suggests “...where ‘a transmitter’ coupled to the receiver at the Head end, transmits the Channel Guide from the Head end to the viewer’s display device (col. 31, lines 25-41)...” describes applicant’s “...a transmitter coupled to the receiver, the transmitter to transmit the custom channel from the broker to the customer”. (Office action, page 9, paragraph 2) For at least the same reason that, as previously explained, a “channel guide” as recited by Alexander does not describe applicant’s ‘custom channel’, the recitation “...transmits the Channel Guide...” in Alexander does not teach applicant’s ‘transmit the custom channel’ as recited in applicant’s description and independent claim 18.

Regarding independent claim 24, the office action further suggests “the claimed ‘a controller to generate custom channel data identifying the at least one selected television program...’ is met by a computer at Head end...which searches to generate a Channel Guide “custom channel” data...and sends the Channel Guide data from Head end to the provider...”. Just as the “Channel Guide” recited in Alexander fails to describe applicant’s ‘custom channel’, as previously shown, the “Channel Guide data” of Alexander fails to describe applicant’s ‘custom channel data’. Therefore, Alexander fails to describe applicant’s independent claim 24.

For at least the reasons detailed in this and previous sections of this response, Alexander fails to describe applicant’s independent claims 18 and 24. Applicant therefore respectfully requests withdrawal of the 102(e) rejections of independent claims 18 and 24. Likewise, because claims 19-21 and 25-27 depend from and include all the

recitations of independent claim 18 and 24, respectively, applicant also requests the withdrawal of the 102(e) rejections from claims 19-21 and 25-27.

### **Independent Claim 28**

Regarding applicant's independent claim 28, the office action states that this claim "...contains the same structural elements of the method steps of claim 6, previously discussed...", asserting that Alexander describes applicant's independent claim 28 for the same reasons as put forth by the office action regarding claim 6. (Office action, page 11, paragraph 5 – page 12, paragraph 1) However, as independent claim 28 contains the same recitation of a 'custom channel' as independent claim 6, and applicant has herein shown how and why the recitations of Alexander fail to describe independent claim 6, applicant likewise respectfully submits Alexander fails to describe independent claim 28.

For at least this reason, applicant respectfully requests the withdrawal of the 102(e) rejection from independent claim 28. Likewise, as claims 29-30 depend from and include all of the distinguishing recitations of independent claim 28, applicant respectfully requests that the 102(e) rejections be withdrawn from claims 29-30.

### **Rejections Under 35 U.S.C. § 103**

In the February 10, 2005 office action, claims 13-14 and 22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Alexander et al (6,177,931) (hereinafter 'Alexander') as applied to claims 12 and 18 above, and in view of Chen et al, (5,917,830). The office action relies upon Chen to recite a 'cable system head end 140 that receives encrypted channels and further includes Transcoder 260 for

encryption/modulation 260 from one or more service provides [sic] and transmits to subscribers homes (figs. 2, col. 5, lines 19-48).”

However, the references, either combined or alone, fail to teach or make obvious at least the ‘custom channel’ recitation present in all of applicant’s independent claims, as presented by applicant throughout the discussion regarding 102(e) rejections. As such, the combination of Alexander and Chen likewise fail to disclose or make obvious all elements of applicant’s independent claims 12 and 18.

As claims 13-14 and 22 depend from and include all of the recitations of independent claims 12 and 18, respectively, applicant respectfully submits that the combined reference likewise fail to teach claims 13-14 and 22, and requests the 103(a) rejection be withdrawn from claims 13-14 and 22.

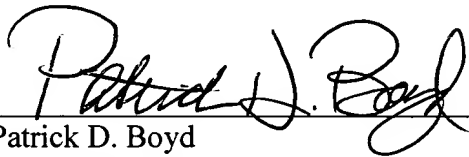
**CONCLUSION**

In light of the points and arguments set forth herein, applicants respectfully submit that the rejections have been properly overcome, and all claims are allowable as originally presented.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666.

Respectfully submitted,

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